

## **REMARKS**

### **Introduction**

Claims 32-47 were previously pending. Claims 32-35 have been canceled, without prejudice, and new claims 48-51 have been added. Therefore, claims 36-51 are currently pending.

Reconsideration of the patentability of the pending claims is requested in view of the foregoing amendments and following discussion.

### **Rejection of Claims 32-35 under 35 U.S.C. § 101**

Claims 32-35 have been rejected under 35 U.S.C. § 101 as not being directed to statutory subject matter. Without commenting on the merits of the rejection, it is noted that claims 32-35 have been canceled, and that the rejection therefore no longer applies to those claims. It is also noted that new claims 48-51 largely incorporate the subject matter of claims 32-35. New claims 32-35 recite a system that includes decryption logic and comparator logic. It is submitted that these features embodied using hardware and/or firmware. For example, it is well known in the art that logic circuits may be formed from programmable gate arrays and that hardware therefore may now include instructional software features. However, this does not bring the subject matter of new claims 48-51 out of compliance 35 U.S.C. § 101 since the programmable instructional features are the embodied in actual logic circuit structure. It is accordingly respectfully requested that the rejection of the pending claims 35 U.S.C. § 101 be withdrawn.

### **Rejection of Claims 32-47 under 35 U.S.C. § 112, first paragraph**

Claims 32-47 have been rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement. In particular, it is asserted that the Applicant's specification supports the feature of "testing decrypted serial number and testing representation of a decrypted access" recited in claims 32, 36 and 44 on the grounds that the decrypted access level and the assigned authorization level are the same.

Claims 32-35 have been canceled, and therefore the rejection no longer applies to these claims. Applicants acknowledge the Examiner's reasoning and have amended independent claims 36 and 44 and their respective dependent claims 39 and 46 to clarify the terms of these

claims. In particular, independent claims 36 and 44 have been amended to distinguish between a device authorization level and an authorization level of a backdoor application.

It is therefore submitted that pending claims 36-47 are definite. Withdrawal of the rejection of these claims under 35 U.S.C. § 112, first paragraph, is accordingly respectfully requested.

**Rejection of Claims 32, 33, 35-37, 39, 40, 44, 46 and 47 under 35 U.S.C. § 102(b)**

Claims 32, 33, 35-37, 39, 40, 44, 46 and 47 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,993,497 to Beetcher et al. (*'Beetcher'*).

As claims 32, 33 and 35 have been canceled, without prejudice, the rejection no longer applies to these claims.

Independent claim 36, as amended, recites, among other features, a backdoor enabled electronic device having serial number and a device authorization level, a single encrypted record of the serial number and the device authorization level, and an authorization level comparator for testing said representations of a decrypted device authorization level for an enabled electronic device with an authorization level of a backdoor application to control access to controlled attributes.

In the Office Action, the Examiner asserts that the *Beetcher* reference teaches the above-recited features of claim 36. Applicant respectfully disagrees. *Beetcher* describes a process whereby an encrypted 'entitlement' key having a machine serial number and 'entitlement bits' is sent to a machine owner in association with a software package containing a number of software modules. *Beetcher*, col. 4, lines 5-8. Upon decryption of the key, and a matching of the serial number within the decrypted key a serial number obtained directly from the machine, a table is created including the entitlement bits from the entitlement key which indicates the modules in the software package which the machine owner is entitled to execute. When a software module is executed, triggers within the software that identify the software module cause a look-up of the table to determine whether the machine owner has permission to run the software module. *Beetcher*, col. 4, lines 10-29.

As the above-description indicates, *Beetcher* does not teach (or even suggest) a device authorization level or a backdoor application authorization level. *Beetcher* essentially teaches linking a trusted (through encryption/decryption) device ID with a group of product numbers in a

table, where the product numbers indicate software programs that the device may execute. To say that a given device A has authorization to use products X,Y and Z is not the same as providing a distinct device authorization level or one or more distinct backdoor application authorization levels. Importantly, the claimed device authorization level is independent of the software being provided (and its vendor) and resides on the device as an attribute of the device. Thus, the device authorization level is not defined by entitlement bits that indicate that the device is entitled to execute product numbers 2, 7, 10, etc. According to the claimed invention, a different vendor may provide a different group of products, but the device authorization level would still apply with respect to the different group of products.

Still further, none of the software products or modules referred to in *Beetcher* have a distinct authorization level either. All products listed in the entitlement bits are executable. Nowhere does *Beetcher* teach or at all suggest **comparing** the authorization levels of the device and an application to be executed to determine whether the device authorization level is at least as high as the application authorization level. That is because according to the method described in *Beetcher*, no comparison is necessary as there is no comparison (i.e., determination whether one value is as great as another) between authorization levels as such, rather, there is a look up to see whether the product number of a triggered software module is included in a list of entitled software modules.

For at least the reasons given above, it is submitted that *Beetcher* does not render obvious the subject matter of independent claim 36, or its dependent claims 37, 39, and 40. As independent claim 44 recites features analogous to those of claims 36, it is submitted that claim 44 and its dependent claims 46 and 47 are likewise not anticipated by *Beetcher*.

Withdrawal of the rejection of claims 32, 33, 35-37, 39, 40, 44, 46 and 47 under 35 U.S.C. § 102(b) is therefore respectfully requested.

### **Rejections under 35 U.S.C. § 103**

#### **First Rejection (of claims 41-43 based on *Beetcher*)**

Claims 41-43 have been rejected under 35 U.S.C. § 103(a) as unpatentable based on *Beetcher*. Claims 41-43 depend from and incorporate the features of independent claim 36. As *Beetcher* does not disclose or suggest the features of independent claim 36 as discussed above, it is submitted that claims 41-43 are likewise patentable over *Beetcher*.

Withdrawal of the rejection of claims 41-43 under 35 U.S.C. § 103 based on *Beetcher* is therefore requested.

Second Rejection (of claims based on Beetcher in view of Siefert

Claims 34, 38 and 45 have been rejected under 35 U.S.C. § 103(a) based on Beetcher in view of U.S. Patent No. 6,526,512 to Siefert et al. (*'Siefert'*).

As the *Siefert* reference does not cure the deficiencies of the *Beetcher* reference with respect to independent claims 36 and 44, it is submitted that their dependent claims 38 and 45 are patentable over the references relied upon (claim 34 having been canceled).

Withdrawal of the rejection of claims 34, 38 and 45 under 35 U.S.C. § 103 based on *Beetcher* and *Siefert* is therefore requested.

**Conclusion**

Applicants therefore respectfully request that the Examiner reconsider the outstanding final rejections. The Examiner is invited to telephone the undersigned representative if an interview might expedite allowance of this application.

Respectfully submitted,

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